

Calendar No. 592

105TH CONGRESS  
2D Session

S. 1021

[Report No. 105-340]

A BILL

To amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes.

SEPTEMBER 21, 1998

Reported with an amendment

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IN THE SENATE OF THE UNITED STATES

JULY 16, 1997

Mr. HAGEL (for himself, Mr. CLELAND, Mr. HUTCHINSON, Mr. DORGAN, Mr. BURNS, Mr. ROTH, Mr. FAIRCLOTH, Mr. HELMS, Mr. MOYNIHAN, Ms. LANDRIEU, Mr. REID, Mr. CAMPBELL, Mr. MCCAIN, Mr. BIDEN, Mr. LOTT, Mr. KERREY, Mr. INHOFE, Mr. WARNER, Mr. DASCHLE, Mrs. MURRAY, Mr. TORRICELLI, Mr. FRIST, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. DEWINE, and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

SEPTEMBER 21, 1998

Reported by Mr. SPECTER, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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**A BILL**

To amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
 2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Veterans Employment  
 5 Opportunities Act of 1997”.

6       **SEC. 2. EQUAL ACCESS FOR VETERANS.**

7       (a) **COMPETITIVE SERVICE.**—Section 3304 of title 5,  
 8 United States Code, is amended by adding at the end the  
 9 following:

10       “(f)(1) No preference eligible, and no individual  
 11 (other than a preference eligible) who has been separated  
 12 from the armed forces under honorable conditions after  
 13 3 or more years of active service, shall be denied the op-  
 14 portunity to compete for an announced vacant position  
 15 within an agency, in the competitive service or the ex-  
 16 cepted service, by reason of—

17               “(A) not having acquired competitive status; or

18               “(B) not being an employee of such agency.

19       “(2) Nothing in this subsection shall prevent an agen-  
 20 cy from filling a vacant position (whether by appointment  
 21 or otherwise) solely from individuals on a priority place-  
 22 ment list consisting of individuals who have been sepa-  
 23 rated from the agency due to a reduction in force and sur-  
 24 plus employees (as defined under regulations prescribed  
 25 by the Office).”.

1 (b) CIVIL SERVICE EMPLOYMENT INFORMATION.—

2 (1) VACANT POSITIONS.—Section 3327(b) of  
 3 title 5, United States Code, is amended by striking  
 4 “and” at the end of paragraph (1), by redesignating  
 5 paragraph (2) as paragraph (3), and by inserting  
 6 after paragraph (1) the following:

7 “(2) each vacant position in the agency for  
 8 which competition is restricted to individuals having  
 9 competitive status or employees of such agency, ex-  
 10 cluding any position under paragraph (1), and”.

11 (2) ADDITIONAL INFORMATION.—Section 3327  
 12 of title 5, United States Code, is amended by adding  
 13 at the end the following:

14 “(e) Any notification provided under this section  
 15 shall, for all positions under subsection (b)(1) as to which  
 16 section 3304(f) applies and for all positions under sub-  
 17 section (b)(2), include a notation as to the applicability  
 18 of section 3304(f) with respect thereto.

19 “(d) In consultation with the Secretary of Labor, the  
 20 Office shall submit to Congress and the President, no less  
 21 frequently than every 2 years, a report detailing, with re-  
 22 spect to the period covered by such report—

23 “(1) the number of positions listed under this  
 24 section during such period;

1           ~~“(2) the number of preference eligibles and~~  
 2           ~~other individuals described in section 3304(f)(1) re-~~  
 3           ~~ferred to such positions during such period; and~~

4           ~~“(3) the number of preference eligibles and~~  
 5           ~~other individuals described in section 3304(f)(1) ap-~~  
 6           ~~pointed to such positions during such period.”.~~

7           ~~(c) GOVERNMENTWIDE LISTS.—~~

8           ~~(1) VACANT POSITIONS.—~~Section 3330(b) of  
 9           ~~title 5, United States Code, is amended to read as~~  
 10          ~~follows:~~

11          ~~“(b) The Office of Personnel Management shall cause~~  
 12          ~~to be established and kept current—~~

13               ~~“(1) a comprehensive list of all announcements~~  
 14               ~~of vacant positions (in the competitive service and~~  
 15               ~~the excepted service, respectively) within each agency~~  
 16               ~~that are to be filled by appointment for more than~~  
 17               ~~1 year and for which applications are being or will~~  
 18               ~~soon be accepted from outside the agency’s work~~  
 19               ~~force; and~~

20               ~~“(2) a comprehensive list of all announcements~~  
 21               ~~of vacant positions within each agency for which ap-~~  
 22               ~~plications are being or will soon be accepted and for~~  
 23               ~~which competition is restricted to individuals having~~  
 24               ~~competitive status or employees of such agency; ex-~~

1 including any position required to be listed under  
 2 paragraph (1).”.

3 ~~(2)~~ ~~ADDITIONAL INFORMATION.~~—Section  
 4 3330(c) of title 5, United States Code, is amended  
 5 by striking “and” at the end of paragraph (2), by  
 6 redesignating paragraph (3) as paragraph (4), and  
 7 by inserting after paragraph (2) the following:

8 “(3) for all positions under subsection (b)(1) as  
 9 to which section 3304(f) applies and for all positions  
 10 under subsection (b)(2), a notation as to the applica-  
 11 bility of section 3304(f) with respect thereto; and”.

12 ~~(3)~~ ~~CONFORMING AMENDMENT.~~—Section  
 13 3330(d) of title 5, United States Code, is amended  
 14 by striking “The list” and inserting “Each list  
 15 under subsection (b)”.

16 ~~(d) PROVISIONS RELATING TO THE UNITED STATES~~  
 17 ~~POSTAL SERVICE.~~—

18 ~~(1) IN GENERAL.~~—Subsection (a) of section  
 19 1005 of title 39, United States Code, is amended by  
 20 adding at the end the following:

21 “(5)(A) The provisions of section 3304(f) of title 5  
 22 shall apply with respect to the Postal Service in the same  
 23 manner and under the same conditions as if the Postal  
 24 Service were an agency within the meaning of such provi-  
 25 sions.

1       “(B) Nothing in this subsection shall be considered  
 2 to require the application of section 3304(f) of title 5 in  
 3 the case of any individual who is not an employee of the  
 4 Postal Service if—

5           “(i) the vacant position involved is to be filled  
 6 pursuant to a collective-bargaining agreement;

7           “(ii) the collective-bargaining agreement re-  
 8 stricts competition for such position to individuals  
 9 employed in a bargaining unit or installation within  
 10 the Postal Service in which the position is located;

11          “(iii) the collective-bargaining agreement pro-  
 12 vides that the successful applicant shall be selected  
 13 on the basis of seniority or qualifications; and

14          “(iv) the position to be filled is within a bar-  
 15 gaining unit.

16       “(C) The provisions of this paragraph shall not be  
 17 modified by any program developed under section 1004  
 18 of this title or any collective-bargaining agreement entered  
 19 into under chapter 12 of this title.”

20           (2) CONFORMING AMENDMENT.—The first sen-  
 21 tence of section 1005(a)(2) of title 39, United States  
 22 Code, is amended by striking “title.” and inserting  
 23 “title, subject to paragraph (5) of this subsection.”

1 **SEC. 3. SPECIAL PROTECTIONS FOR PREFERENCE ELIGI-**  
 2 **BLES IN REDUCTIONS IN FORCE.**

3 (a) IN GENERAL.—Section 3502 of title 5, United  
 4 States Code, as amended by section 1034 of the National  
 5 Defense Authorization Act for Fiscal Year 1996 (Public  
 6 Law 104–106, 110 Stat. 430), is amended by adding at  
 7 the end the following:

8 “(g)(1) A position occupied by a preference eligible  
 9 shall not be placed in a single-position competitive level  
 10 if the preference eligible is qualified to perform the essen-  
 11 tial functions of any other position at the same grade (or  
 12 occupational level) in the competitive area. In such cases,  
 13 the preference eligible shall be entitled to be placed in an-  
 14 other competitive level for which such preference eligible  
 15 is qualified. If the preference eligible is qualified for more  
 16 than one competitive level, such preference eligible shall  
 17 be placed in the competitive level containing the most posi-  
 18 tions.

19 “(2) For purposes of paragraph (1)—

20 “(A) a preference eligible shall be considered  
 21 qualified to perform the essential functions of a posi-  
 22 tion if, by reason of experience, training, or edu-  
 23 cation (and, in the case of a disabled veteran, with  
 24 reasonable accommodation), a reasonable person  
 25 could conclude that the preference eligible would be



1       able to perform those functions successfully within a  
2       period of 150 days; and

3           ~~“(B) a preference eligible shall not be consid-~~  
4       ~~ered unqualified solely because such preference eligi-~~  
5       ~~ble does not meet the minimum qualification require-~~  
6       ~~ments relating to previous experience in a specified~~  
7       ~~grade (or occupational level), if any, that are estab-~~  
8       ~~lished for such position by the Office of Personnel~~  
9       ~~Management or the agency.~~

10       ~~“(h) In connection with any reduction in force, a~~  
11       ~~preference eligible whose current or most recent perform-~~  
12       ~~ance rating is at least fully successful (or the equivalent)~~  
13       ~~shall have, in addition to such assignment rights as are~~  
14       ~~prescribed by regulation, the right, in lieu of separation,~~  
15       ~~to be assigned to any position within the agency conduct-~~  
16       ~~ing the reduction in force—~~

17           ~~“(1) for which such preference eligible is quali-~~  
18       ~~fied under subsection (g)(2)—~~

19           ~~“(A) that is within the preference eligible’s~~  
20       ~~commuting area and at the same grade (or oc-~~  
21       ~~cupational level) as the position from which the~~  
22       ~~preference eligible was released, and that is~~  
23       ~~then occupied by an individual, other than an-~~  
24       ~~other preference eligible, who was placed in~~  
25       ~~such position (whether by appointment or oth-~~

erwise) within 6 months before the reduction in force if, within 12 months prior to the date on which such individual was so placed in such position, such individual had been employed in the same competitive area as the preference eligible; or

“(B) that is within the preference eligible’s competitive area and that is then occupied by an individual, other than another preference eligible, who was placed in such position (whether by appointment or otherwise) within 6 months before the reduction in force; or

“(2) for which such preference eligible is qualified that is within the preference eligible’s competitive area and that is not more than 3 grades (or pay levels) below that of the position from which the preference eligible was released, except that, in the case of a preference eligible with a compensable service-connected disability of 30 percent or more, this paragraph shall be applied by substituting ‘5 grades’ for ‘3 grades’.

In the event that a preference eligible is entitled to assignment to more than 1 position under this subsection, the agency shall assign the preference eligible to any such position requiring no reduction (or, if there is no such posi-

tion, the least reduction) in basic pay. A position shall not,  
 with respect to a preference eligible, be considered to sat-  
 isfy the requirements of paragraph (1) or (2), as applica-  
 ble, if it does not last for at least 12 months following  
 the date on which such preference eligible is assigned to  
 such position under this subsection.

“(i) A preference eligible may challenge the classifica-  
 tion of any position to which the preference eligible asserts  
 assignment rights (as provided by, or prescribed by regula-  
 tions described in, subsection (h)) in an action before the  
 Merit Systems Protection Board.

“(j)(1) Not later than 90 days after the date of the  
 enactment of the Veterans Employment Opportunities Act  
 of 1997, each Executive agency shall establish an agency-  
 wide priority placement program to facilitate employment  
 placement for employees who—

“(A)(i) are scheduled to be separated from serv-  
 ice due to a reduction in force under—

“(I) regulations prescribed under this sec-  
 tion; or

“(II) procedures established under section  
 3595; or

“(ii) are separated from service due to such a  
 reduction in force; and

1           “(B)(i) have received a rating of at least fully  
 2           successful (or the equivalent) as the last perform-  
 3           ance rating of record used for retention purposes; or  
 4           “(ii) occupy positions excluded from a perform-  
 5           ance appraisal system by law, regulation, or admin-  
 6           istrative action taken by the Office of Personnel  
 7           Management.

8           “(2)(A) Each agencywide priority placement program  
 9           under this subsection shall include provisions under which  
 10          a vacant position shall not (except as provided in this  
 11          paragraph or any other statute providing the right of re-  
 12          employment to any individual) be filled by the appoint-  
 13          ment or transfer of any individual from outside of that  
 14          agency (other than an individual described in subpara-  
 15          graph (B)) if—

16           “(i) there is then available any individual de-  
 17           scribed in subparagraph (B) who is qualified for the  
 18           position; and

19           “(ii) the position—

20           “(I) is at the same grade or pay level (or  
 21           the equivalent) or not more than 3 grades (or  
 22           grade intervals) below that of the position last  
 23           held by such individual before placement in the  
 24           new position;

1           ~~“(II) is within the same commuting area~~  
 2           ~~as the individual’s last-held position (as referred~~  
 3           ~~to in subclause (I)) or residence; and~~

4           ~~“(III) has the same type of work schedule~~  
 5           ~~(whether full-time, part-time, or intermittent)~~  
 6           ~~as the position last held by the individual.~~

7           ~~“(B) For purposes of an agencywide priority place-~~  
 8           ~~ment program, an individual shall be considered to be de-~~  
 9           ~~scribed in this subparagraph if such individual—~~

10           ~~“(i)(I) is an employee of such agency who is~~  
 11           ~~scheduled to be separated, as described in paragraph~~  
 12           ~~(1)(A)(i); or~~

13           ~~“(II) is an individual who became a former em-~~  
 14           ~~ployee of such agency as a result of a separation, as~~  
 15           ~~described in paragraph (1)(A)(ii), excluding any in-~~  
 16           ~~dividual who separated voluntarily under subsection~~  
 17           ~~(f); and~~

18           ~~“(ii) satisfies clause (i) or (ii) of paragraph~~  
 19           ~~(1)(B).~~

20           ~~“(3)(A) If after a reduction in force the agency has~~  
 21           ~~no positions of any type within the local commuting areas~~  
 22           ~~specified in this subsection, the individual may designate~~  
 23           ~~a different local commuting area where the agency has~~  
 24           ~~continuing positions in order to exercise reemployment~~  
 25           ~~rights under this subsection. An agency may determine~~

1 that such designations are not in the interest of the Gov-  
 2 ernment for the purpose of paying relocation expenses  
 3 under subchapter H of chapter 57.

4 “(B) At its option, an agency may administratively  
 5 extend reemployment rights under this subsection to in-  
 6 clude other local commuting areas.

7 “(4)(A) In selecting employees for positions under  
 8 this subsection, the agency shall place qualified present  
 9 and former employees in retention order by veterans’ pref-  
 10 erence subgroup and tenure group.

11 “(B) An agency may not pass over a qualified present  
 12 or former employee to select an individual in a lower veter-  
 13 ans’ preference subgroup within the tenure group, or in  
 14 a lower tenure group.

15 “(C) Within a subgroup, the agency may select a  
 16 qualified present or former employee without regard to the  
 17 individual’s total creditable service.

18 “(5) An individual is eligible for reemployment prior-  
 19 ity under this subsection for 2 years from the effective  
 20 date of the reduction in force from which the individual  
 21 will be, or has been, separated under this section or section  
 22 3595, as the case may be.

23 “(6) An individual loses eligibility for reemployment  
 24 priority under this subsection when the individual—

25 “(A) requests removal in writing;

1           “(B) accepts or declines a bona fide offer under  
2           this subsection or fails to accept such an offer within  
3           the period of time allowed for such acceptance; or

4           “(C) separates from the agency before being  
5           separated under this section or section 3595, as the  
6           case may be.

7   A present or former employee who declines a position with  
8   a representative rate (or equivalent) that is less than the  
9   rate of the position from which the individual was sepa-  
10   rated under this section retains eligibility for positions  
11   with a higher representative rate up to the rate of the indi-  
12   vidual’s last position.

13          “(7) Whenever more than one individual is qualified  
14   for a position under this subsection, the agency shall select  
15   the most highly qualified individual, subject to paragraph  
16   (4).

17          “(8) The Office of Personnel Management shall issue  
18   regulations to implement this subsection.”.

19          (b) APPLICABILITY.—

20                (1) IN GENERAL.—Subject to paragraph (2),  
21   the amendments made by this section shall apply  
22   with respect to—

23                        (A) reductions in force taking effect after  
24                        the end of the 90-day period beginning on the  
25                        date of the enactment of this Act; or

(B) in the case of the Department of Defense, reductions in force taking effect after the end of the 1-year period beginning on the date of the enactment of this Act.

(2) ONGOING REDUCTIONS IN FORCE.—If an agency has given written notice of a reduction in force to any of its employees within a competitive area, in accordance with section 3502(d)(1)(A) of title 5, United States Code, before the effective date under subparagraph (A) or (B) of paragraph (1), as applicable, then, for purposes of determining the rights of any employee within such area in connection with such reduction in force, the amendments made by this section shall be treated as if they had never been enacted. Nothing in the preceding sentence shall affect any rights under a priority placement program under section 3502(j) of title 5, United States Code, as amended by this section.

#### SEC. 4. IMPROVED REDRESS FOR VETERANS.

(a) IN GENERAL.—Subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end the following:

##### “§ 3330a. Administrative redress

“(a)(1) Any preference eligible or other individual described in section 3304(f)(1) who alleges that an agency



1 has violated such individual's rights under any statute or  
 2 regulation relating to veterans' preference, or any right  
 3 afforded such individual by section 3304(f), may file a  
 4 complaint with the Secretary of Labor.

5       “(2) A complaint under this subsection must be filed  
 6 within 60 days after the date of the alleged violation, and  
 7 the Secretary shall process such complaint in accordance  
 8 with sections 4322 (a) through (e)(1) and 4326 of title  
 9 38.

10       “(b)(1) If the Secretary of Labor is unable to resolve  
 11 the complaint within 60 days after the date on which it  
 12 is filed, the complainant may elect to appeal the alleged  
 13 violation to the Merit Systems Protection Board in accord-  
 14 ance with such procedures as the Merit Systems Protec-  
 15 tion Board shall prescribe, except that in no event may  
 16 any such appeal be brought—

17               “(A) before the 61st day after the date on  
 18 which the complaint is filed under subsection (a); or

19               “(B) later than 15 days after the date on which  
 20 the complainant receives notification from the Sec-  
 21 retary of Labor under section 4322(e)(1) of title 38.

22       “(2) An appeal under this subsection may not be  
 23 brought unless—

1           “(A) the complainant first provides written no-  
 2           tification to the Secretary of Labor of such com-  
 3           plainant’s intention to bring such appeal; and

4           “(B) appropriate evidence of compliance with  
 5           subparagraph (A) is included (in such form and  
 6           manner as the Merit Systems Protection Board may  
 7           prescribe) with the notice of appeal under this sub-  
 8           section.

9           “(3) Upon receiving notification under paragraph  
 10          (2)(A), the Secretary of Labor shall not continue to inves-  
 11          tigate or further attempt to resolve the complaint to which  
 12          such notification relates.

13          “(c) This section shall not be construed to prohibit  
 14          a preference eligible from appealing directly to the Merit  
 15          Systems Protection Board from any action which is ap-  
 16          pealable to the Board under any other law, rule, or regula-  
 17          tion, in lieu of administrative redress under this section.

18          **“§ 3330b. Judicial redress**

19          “(a) In lieu of continuing the administrative redress  
 20          procedure provided under section 3330a(b), a preference  
 21          eligible or other individual described in section 3304(f)(1)  
 22          may elect, in accordance with this section, to terminate  
 23          those administrative proceedings and file an action with  
 24          the appropriate United States district court not later than  
 25          60 days after the date of the election.

1       “(b) An election under this section may not be  
2 made—

3               “(1) before the 121st day after the date on  
4 which the appeal is filed with the Merit Systems  
5 Protection Board under section 3330a(b); or

6               “(2) after the Merit Systems Protection Board  
7 has issued a judicially reviewable decision on the  
8 merits of the appeal.

9       “(c) An election under this section shall be made, in  
10 writing, in such form and manner as the Merit Systems  
11 Protection Board shall by regulation prescribe. The elec-  
12 tion shall be effective as of the date on which it is received,  
13 and the administrative proceeding to which it relates shall  
14 terminate immediately upon the receipt of such election.

15 **“§ 3330e. Remedy**

16       “(a) If the Merit Systems Protection Board (in a pro-  
17 ceeding under section 3330a) or a court (in a proceeding  
18 under section 3330b) determines that an agency has vio-  
19 lated a right described in section 3330a, the Board or  
20 court (as the case may be) shall order the agency to com-  
21 ply with such provisions and award compensation for any  
22 loss of wages or benefits suffered by the individual by rea-  
23 son of the violation involved. If the Board or court deter-  
24 mines that such violation was willful, it shall award an  
25 amount equal to backpay as liquidated damages.

1       “(b) A preference eligible or other individual de-  
 2       scribed in section 3304(f)(1) who prevails in an action  
 3       under section 3330a or 3330b shall be awarded reasonable  
 4       attorney fees, expert witness fees, and other litigation ex-  
 5       penses.”.

6       (b) CLERICAL AMENDMENT.—The table of sections  
 7       at the beginning of chapter 33 of title 5, United States  
 8       Code, is amended by adding after the item relating to sec-  
 9       tion 3330 the following:

“3330a: Administrative redress.

“3330b: Judicial redress.

“3330c: Remedy.”.

#### 10   **SEC. 5. EXTENSION OF VETERANS' PREFERENCE.**

11       (a) AMENDMENT TO TITLE 5, UNITED STATES  
 12       CODE.—Paragraph (3) of section 2108 of title 5, United  
 13       States Code, is amended by striking “the Federal Bureau  
 14       of Investigation and Drug Enforcement Administration  
 15       Senior Executive Service, or the General Accounting Of-  
 16       fice;” and inserting “or the Federal Bureau of Investiga-  
 17       tion and Drug Enforcement Administration Senior Execu-  
 18       tive Service;”.

19       (b) AMENDMENTS TO TITLE 3, UNITED STATES  
 20       CODE.—

21               (1) IN GENERAL.—Chapter 2 of title 3, United  
 22       States Code, is amended by adding at the end the  
 23       following:

1 **“§ 115. Veterans’ preference**

2       “(a) Subject to subsection (b), appointments under  
3 sections 105, 106, and 107 shall be made in accordance  
4 with section 2108, and sections 3309 through 3312, of  
5 title 5.

6       “(b) Subsection (a) shall not apply to any appoint-  
7 ment to a position the rate of basic pay for which is at  
8 least equal to the minimum rate established for positions  
9 in the Senior Executive Service under section 5382 of title  
10 5 and the duties of which are comparable to those de-  
11 scribed in section 3132(a)(2) of such title or to any other  
12 position if, with respect to such position, the President  
13 makes certification—

14               “(1) that such position is—

15                       “(A) a confidential or policy-making posi-  
16                       tion; or

17                       “(B) a position for which political affili-  
18                       ation or political philosophy is otherwise an im-  
19                       portant qualification; and

20               “(2) that any individual selected for such posi-  
21               tion is expected to vacate the position at or before  
22               the end of the President’s term (or terms) of office.

23 Each individual appointed to a position described in the  
24 preceding sentence as to which the expectation described  
25 in paragraph (2) applies shall be notified as to such expec-

1 tation, in writing, at the time of appointment to such posi-  
 2 tion.”.

3           ~~(2) CLERICAL AMENDMENT.~~—The table of sec-  
 4 tions at the beginning of chapter 2 of title 3, United  
 5 States Code, is amended by adding at the end the  
 6 following:

“115. Veterans’ preference.”.

7           ~~(c) LEGISLATIVE BRANCH APPOINTMENTS.~~—

8           ~~(1) DEFINITIONS.~~—For the purposes of this  
 9 subsection, the terms “employing office”, “covered  
 10 employee”, and “Board” shall each have the mean-  
 11 ing given such term by section 101 of the Congres-  
 12 sional Accountability Act of 1995 (2 U.S.C. 1301).

13           ~~(2) RIGHTS AND PROTECTIONS.~~—The rights  
 14 and protections established under section 2108, sec-  
 15 tions 3309 through 3312, and subchapter I of chap-  
 16 ter 35, of title 5, United States Code, shall apply to  
 17 covered employees.

18           ~~(3) REMEDIES.~~—

19           ~~(A) IN GENERAL.~~—The remedy for a viola-  
 20 tion of paragraph (2) shall be such remedy as  
 21 would be appropriate if awarded under applica-  
 22 ble provisions of title 5, United States Code, in  
 23 the case of a violation of the relevant cor-  
 24 responding provision (referred to in paragraph  
 25 ~~(2))~~ of such title.

1           ~~(B) PROCEDURE.~~—The procedure for con-  
 2           sideration of alleged violations of paragraph (2)  
 3           shall be the same as apply under section 401 of  
 4           the Congressional Accountability Act of 1995  
 5           (and the provisions of law referred to therein)  
 6           in the case of an alleged violation of part A of  
 7           title II of such Act.

8           ~~(4) REGULATIONS TO IMPLEMENT SUB-~~  
 9           ~~SECTION.~~—

10           ~~(A) IN GENERAL.~~—The Board shall, pur-  
 11           suant to section 304 of the Congressional Ac-  
 12           countability Act of 1995 (2 U.S.C. 1384), issue  
 13           regulations to implement this subsection.

14           ~~(B) AGENCY REGULATIONS.~~—The regula-  
 15           tions issued under subparagraph (A) shall be  
 16           the same as the most relevant substantive regu-  
 17           lations (applicable with respect to the executive  
 18           branch) promulgated to implement the statu-  
 19           tory provisions referred to in paragraph (2) ex-  
 20           cept insofar as the Board may determine, for  
 21           good cause shown and stated together with the  
 22           regulation, that a modification of such regula-  
 23           tions would be more effective for the implemen-  
 24           tation of the rights and protections under this  
 25           subsection.

1           (C) COORDINATION.—The regulations  
 2           issued under subparagraph (A) shall be consist-  
 3           ent with section 225 of the Congressional Ac-  
 4           countability Act of 1995 (2 U.S.C. 1361).

5           (5) APPLICABILITY.—Notwithstanding any  
 6           other provision of this subsection, the term “covered  
 7           employee” shall not, for purposes of this subsection,  
 8           include an employee—

9           (A) whose appointment is made by the  
 10          President with the advice and consent of the  
 11          Senate;

12          (B) whose appointment is made by a Mem-  
 13          ber of Congress or by a committee or sub-  
 14          committee of either House of Congress; or

15          (C) who is appointed to a position, the du-  
 16          ties of which are equivalent to those of a Senior  
 17          Executive Service position (within the meaning  
 18          of section 3132(a)(2) of title 5, United States  
 19          Code).

20          (6) EFFECTIVE DATE.—Paragraphs (2) and (3)  
 21          shall be effective as of the effective date of the regu-  
 22          lations under paragraph (4).

23          (d) JUDICIAL BRANCH APPOINTMENTS.—



1           ~~(1) IN GENERAL.—~~Subject to paragraphs ~~(2)~~  
 2           through ~~(4)~~, the Judicial Conference of the United  
 3           States shall prescribe regulations to provide for—

4                   ~~(A)~~ veterans' preference in the consider-  
 5                   ation of applicants for employment, and in the  
 6                   conduct of any reductions in force, within the  
 7                   judicial branch; and

8                   ~~(B)~~ redress procedures for alleged viola-  
 9                   tions of any rights provided for under subpara-  
 10                  graph ~~(A)~~.

11          ~~(2) REGULATIONS TO BE BASED ON EXISTING~~  
 12          ~~PROVISIONS.—~~Under the regulations—

13                  ~~(A)~~ a preference eligible (as defined by sec-  
 14                  tion 2108 of title 5, United States Code) shall  
 15                  be afforded preferences similar to those under  
 16                  sections 3309 through 3312, and subchapter I  
 17                  of chapter 35, of such title 5; and

18                  ~~(B)~~ the redress procedures provided for  
 19                  shall be similar to those under the amendments  
 20                  made by section 4.

21          ~~(3) EXCLUSIONS.—~~Nothing in the regulations  
 22          shall apply with respect to—

23                  ~~(A)~~ an appointment made by the Presi-  
 24                  dent, with the advice and consent of the Senate;

25                  ~~(B)~~ an appointment as a judicial officer;

1           (C) an appointment as a law clerk or sec-  
 2           retary to a justice or judge of the United  
 3           States; or

4           (D) an appointment to a position, the du-  
 5           ties of which are equivalent to those of a Senior  
 6           Executive Service position (within the meaning  
 7           of section 3132(a)(2) of title 5, United States  
 8           Code).

9           (4) CONSULTATION.—The regulations under  
 10          this subsection shall be prescribed by the Judicial  
 11          Conference of the United States, in consultation  
 12          with—

13           (A) the largest congressionally chartered  
 14           veterans' service organization;

15           (B) 2 congressionally chartered veterans'  
 16           service organizations that represent former non-  
 17           commissioned officers;

18           (C) a congressionally chartered veterans'  
 19           service organization that represents veterans  
 20           who have fought in foreign wars;

21           (D) a congressionally chartered veterans'  
 22           service organization that represents veterans  
 23           with service-connected disabilities;

1           ~~(E)~~ a congressionally chartered veterans'  
 2 service organization that represents veterans of  
 3 the Vietnam era; and

4           ~~(F)~~ a congressionally chartered veterans'  
 5 service organization that represents veterans of  
 6 World War II, the Korean conflict, the Vietnam  
 7 era, and the Persian Gulf War.

8           ~~(5)~~ DEFINITIONS.—For purposes of this sub-  
 9 section—

10           ~~(A)~~ the term “judicial officer” means a  
 11 justice, judge, or magistrate judge listed in sub-  
 12 paragraph ~~(A)~~, ~~(B)~~, ~~(F)~~, or ~~(G)~~ of section  
 13 376(a)(1) of title 28, United States Code; and

14           ~~(B)~~ the term “justice or judge of the  
 15 United States” has the meaning given such  
 16 term by section 451 of such title 28.

17           ~~(6)~~ SUBMISSION TO CONGRESS; EFFECTIVE  
 18 DATE.—

19           ~~(A)~~ SUBMISSION TO CONGRESS.—Within 5  
 20 months after the date of the enactment of this  
 21 Act, the Judicial Conference of the United  
 22 States shall submit a copy of the regulations  
 23 prescribed under this subsection to the Commit-  
 24 tee on Government Reform and Oversight and  
 25 the Committee on the Judiciary of the House of

1           Representatives and the Committee on Govern-  
 2           mental Affairs and the Committee on the Judi-  
 3           ciary of the Senate.

4                   (B) **EFFECTIVE DATE.**—The regulations  
 5           prescribed under this subsection shall take ef-  
 6           fect 6 months after the date of the enactment  
 7           of this Act.

8   **SEC. 6. VETERANS' PREFERENCE REQUIRED FOR REDUC-**  
 9                   **TIONS IN FORCE IN THE FEDERAL AVIATION**  
 10                  **ADMINISTRATION.**

11       Section 347(b) of the Department of Transportation  
 12   and Related Agencies Appropriations Act, 1996 (109 Stat.  
 13   460) is amended by striking “and” at the end of para-  
 14   graph (6), by striking the period at the end of paragraph  
 15   (7) and inserting “; and”, and by adding at the end the  
 16   following:

17                   “(8) sections 3501–3504, as such sections re-  
 18       late to veterans’ preference.”.

19   **SEC. 7. DEFINITIONAL AMENDMENT.**

20       Subparagraph (A) of section 2108(1) of title 5,  
 21   United States Code, is amended by inserting “during a  
 22   military operation in a qualified hazardous duty area  
 23   (within the meaning of the first 2 sentences of section 1(b)  
 24   of Public Law 104–117) and in accordance with require-  
 25   ments that may be prescribed in regulations of the Sec-

1 retary of Defense,” after “for which a campaign badge  
2 has been authorized,”.

3 **SEC. 8. FAILURE TO COMPLY WITH VETERANS’ PREF-**  
4 **ERENCE REQUIREMENTS TO BE TREATED AS**  
5 **A PROHIBITED PERSONNEL PRACTICE FOR**  
6 **CERTAIN PURPOSES.**

7 (a) IN GENERAL.—Subsection (b) of section 2302 of  
8 title 5, United States Code, is amended—

9 (1) by striking “or” at the end of paragraph  
10 (10);

11 (2) by redesignating paragraph (11) as para-  
12 graph (12); and

13 (3) by inserting after paragraph (10) the fol-  
14 lowing:

15 “(11)(A) knowingly take, recommend, or ap-  
16 prove any personnel action if the taking of such ac-  
17 tion would violate a veterans’ preference require-  
18 ment; or

19 “(B) knowingly fail to take, recommend, or ap-  
20 prove any personnel action if the failure to take such  
21 action would violate a veterans’ preference require-  
22 ment; or”.

23 (b) DEFINITION; LIMITATION.—Section 2302 of title  
24 5, United States Code, is amended by adding at the end  
25 the following:

1       “(e)(1) For the purpose of this section, the term ‘vet-  
 2       erans’ preference requirement’ means any of the following  
 3       provisions of law:

4               “(A) Sections 2108, 3305(b), 3309, 3310,  
 5       3311, 3312, 3313, 3314, 3315, 3316, 3317(b),  
 6       3318, 3320, 3351, 3352, 3363, 3501, 3502(b),  
 7       3504, and 4303(c) and (with respect to a preference  
 8       eligible referred to in section 7511(a)(1)(B)) sub-  
 9       chapter II of chapter 75 and section 7701.

10              “(B) Sections 943(c)(2) and 1784(c) of title 10.

11              “(C) Section 1308(b) of the Alaska National  
 12       Interest Lands Conservation Act.

13              “(D) Section 301(c) of the Foreign Service Act  
 14       of 1980.

15              “(E) Sections 106(f), 7281(c), and 7802(5) of  
 16       title 38.

17              “(F) Section 1005(a) of title 39.

18              “(G) Any other provision of law that the Direc-  
 19       tor of the Office of Personnel Management des-  
 20       ignates in regulations as being a veterans’ preference  
 21       requirement for the purposes of this subsection.

22              “(H) Any regulation prescribed under sub-  
 23       section (b) or (c) of section 1302 and any other reg-  
 24       ulation that implements a provision of law referred  
 25       to in any of the preceding subparagraphs.

1       “(2) Notwithstanding any other provision of this title,  
 2 no authority to order corrective action shall be available  
 3 in connection with a prohibited personnel practice de-  
 4 scribed in subsection (b)(11). Nothing in this paragraph  
 5 shall be considered to affect any authority under section  
 6 1215 (relating to disciplinary action).”.

7       (c) REPEALS.—

8           (1) PROVISIONS OF TITLE 10, UNITED STATES  
 9 CODE.—Section 1599e of title 10, United States  
 10 Code, and the item relating to such section in the  
 11 table of sections at the beginning of chapter 81 of  
 12 such title are repealed.

13          (2) SECTION 2302(a)(1) OF TITLE 5, UNITED  
 14 STATES CODE.—Subsection (a)(1) of section 2302 of  
 15 title 5, United States Code, is amended to read as  
 16 follows:

17       “(a)(1) For the purpose of this title, ‘prohibited per-  
 18 sonnel practice’ means any action described in subsection  
 19 (b).”.

20       (d) SAVINGS PROVISION.—This section shall be treat-  
 21 ed as if it had never been enacted for purposes of any  
 22 personnel action (within the meaning of section 2302 of  
 23 title 5, United States Code) preceding the date of the en-  
 24 actment of this Act.

1 **SECTION 1. SHORT TITLE.**

2       *This Act may be cited as the “Veterans Employment*  
 3 *Opportunities Act of 1998”.*

4 **SEC. 2. IMPROVED REDRESS FOR PREFERENCE ELIGIBLES.**

5       *(a) IN GENERAL.—Subchapter I of chapter 33 of title*  
 6 *5, United States Code, is amended by adding at the end*  
 7 *the following:*

8 **“§ 3330a. Preference eligibles; administrative redress**

9       *“(a)(1) A preference eligible who alleges that an agency*  
 10 *has violated such individual’s rights under any statute or*  
 11 *regulation relating to veterans’ preference may file a com-*  
 12 *plaint with the Secretary of Labor.*

13       *“(2)(A) A complaint under this subsection must be*  
 14 *filed within 60 days after the date of the alleged violation.*

15       *“(B) Such complaint shall be in writing, be in such*  
 16 *form as the Secretary may prescribe, specify the agency*  
 17 *against which the complaint is filed, and contain a sum-*  
 18 *mary of the allegations that form the basis for the com-*  
 19 *plaint.*

20       *“(3) The Secretary shall, upon request, provide tech-*  
 21 *nical assistance to a potential complainant with respect to*  
 22 *a complaint under this subsection.*

23       *“(b)(1) The Secretary of Labor shall investigate each*  
 24 *complaint under subsection (a).*

25       *“(2) In carrying out any investigation under this sub-*  
 26 *section, the Secretary’s duly authorized representatives*



1 *shall, at all reasonable times, have reasonable access to, for*  
2 *purposes of examination, and the right to copy and receive,*  
3 *any documents of any person or agency that the Secretary*  
4 *considers relevant to the investigation.*

5       “(3) *In carrying out any investigation under this sub-*  
6 *section, the Secretary may require by subpoena the attend-*  
7 *ance and testimony of witnesses and the production of docu-*  
8 *ments relating to any matter under investigation. In case*  
9 *of disobedience of the subpoena or contumacy and on request*  
10 *of the Secretary, the Attorney General may apply to any*  
11 *district court of the United States in whose jurisdiction*  
12 *such disobedience or contumacy occurs for an order enforc-*  
13 *ing the subpoena.*

14       “(4) *Upon application, the district courts of the*  
15 *United States shall have jurisdiction to issue writs com-*  
16 *manding any person or agency to comply with the subpoena*  
17 *of the Secretary or to comply with any order of the Sec-*  
18 *retary made pursuant to a lawful investigation under this*  
19 *subsection and the district courts shall have jurisdiction to*  
20 *punish failure to obey a subpoena or other lawful order of*  
21 *the Secretary as a contempt of court.*

22       “(c)(1)(A) *If the Secretary of Labor determines as a*  
23 *result of an investigation under subsection (b) that the ac-*  
24 *tion alleged in a complaint under subsection (a) occurred,*  
25 *the Secretary shall attempt to resolve the complaint by mak-*

1 *ing reasonable efforts to ensure that the agency specified*  
 2 *in the complaint complies with applicable provisions of*  
 3 *statute or regulation relating to veterans' preference.*

4       “(B) *The Secretary of Labor shall make determina-*  
 5 *tions referred to in subparagraph (A) based on a preponder-*  
 6 *ance of the evidence.*

7       “(2) *If the efforts of the Secretary under subsection (b)*  
 8 *with respect to a complaint under subsection (a) do not re-*  
 9 *sult in the resolution of the complaint, the Secretary shall*  
 10 *notify the person who submitted the complaint, in writing,*  
 11 *of the results of the Secretary's investigation under sub-*  
 12 *section (b).*

13       “(d)(1) *If the Secretary of Labor is unable to resolve*  
 14 *a complaint under subsection (a) within 60 days after the*  
 15 *date on which it is filed, the complainant may elect to ap-*  
 16 *peal the alleged violation to the Merit Systems Protection*  
 17 *Board in accordance with such procedures as the Merit Sys-*  
 18 *tems Protection Board shall prescribe, except that in no*  
 19 *event may any such appeal be brought—*

20               “(A) *before the 61st day after the date on which*  
 21 *the complaint is filed; or*

22               “(B) *later than 15 days after the date on which*  
 23 *the complainant receives written notification from the*  
 24 *Secretary under subsection (c)(2).*

1       “(2) *An appeal under this subsection may not be*  
2 *brought unless—*

3               “(A) *the complainant first provides written noti-*  
4 *fication to the Secretary of such complainant’s inten-*  
5 *tion to bring such appeal; and*

6               “(B) *appropriate evidence of compliance with*  
7 *subparagraph (A) is included (in such form and*  
8 *manner as the Merit Systems Protection Board may*  
9 *prescribe) with the notice of appeal under this sub-*  
10 *section.*

11       “(3) *Upon receiving notification under paragraph*  
12 *(2)(A), the Secretary shall not continue to investigate or*  
13 *further attempt to resolve the complaint to which the notifi-*  
14 *cation relates.*

15       “(e)(1) *This section shall not be construed to prohibit*  
16 *a preference eligible from appealing directly to the Merit*  
17 *Systems Protection Board from any action which is appeal-*  
18 *able to the Board under any other law, rule, or regulation,*  
19 *in lieu of administrative redress under this section.*

20       “(2) *A preference eligible may not pursue redress for*  
21 *an alleged violation described in subsection (a) under this*  
22 *section at the same time the preference eligible pursues re-*  
23 *dress for such violation under any other law, rule, or regu-*  
24 *lation.*

1 **“§ 3330b. Preference eligibles; judicial redress**

2 “(a) *In lieu of continuing the administrative redress*  
 3 *procedure provided under section 3330a(d), a preference eli-*  
 4 *gible may elect, in accordance with this section, to termi-*  
 5 *nate those administrative proceedings and file an action*  
 6 *with the appropriate United States district court not later*  
 7 *than 60 days after the date of the election.*

8 “(b) *An election under this section may not be made—*

9 “(1) *before the 121st day after the date on which*  
 10 *the appeal is filed with the Merit Systems Protection*  
 11 *Board under section 3330a(d); or*

12 “(2) *after the Merit Systems Protection Board*  
 13 *has issued a judicially reviewable decision on the*  
 14 *merits of the appeal.*

15 “(c) *An election under this section shall be made, in*  
 16 *writing, in such form and manner as the Merit Systems*  
 17 *Protection Board shall by regulation prescribe. The election*  
 18 *shall be effective as of the date on which it is received, and*  
 19 *the administrative proceeding to which it relates shall ter-*  
 20 *minate immediately upon the receipt of such election.*

21 **“§ 3330c. Preference eligibles; remedy**

22 “(a) *If the Merit Systems Protection Board (in a pro-*  
 23 *ceeding under section 3330a) or a court (in a proceeding*  
 24 *under section 3330b) determines that an agency has vio-*  
 25 *lated a right described in section 3330a, the Board or court*  
 26 *(as the case may be) shall order the agency to comply with*

1 *such provisions and award compensation for any loss of*  
 2 *wages or benefits suffered by the individual by reason of*  
 3 *the violation involved. If the Board or court determines that*  
 4 *such violation was willful, it shall award an amount equal*  
 5 *to backpay as liquidated damages.*

6 “(b) *A preference eligible who prevails in an action*  
 7 *under section 3330a or 3330b shall be awarded reasonable*  
 8 *attorney fees, expert witness fees, and other litigation ex-*  
 9 *penses.”.*

10 (b) *CLERICAL AMENDMENT.—The table of sections at*  
 11 *the beginning of chapter 33 of title 5, United States Code,*  
 12 *is amended by adding after the item relating to section 3330*  
 13 *the following:*

*“3330a. Preference eligibles; administrative redress.*

*“3330b. Preference eligibles; judicial redress.*

*“3330c. Preference eligibles; remedy.”.*

14 **SEC. 3. EXTENSION OF VETERANS’ PREFERENCE.**

15 (a) *AMENDMENT TO TITLE 5, UNITED STATES*  
 16 *CODE.—Paragraph (3) of section 2108 of title 5, United*  
 17 *States Code, is amended by striking “the Federal Bureau*  
 18 *of Investigation and Drug Enforcement Administration*  
 19 *Senior Executive Service, or the General Accounting Of-*  
 20 *fice;” and inserting “or the Federal Bureau of Investigation*  
 21 *and Drug Enforcement Administration Senior Executive*  
 22 *Service;”.*

23 (b) *AMENDMENTS TO TITLE 3, UNITED STATES*  
 24 *CODE.—*

1           (1) *IN GENERAL.*—Chapter 2 of title 3, United  
 2       *States Code*, is amended by adding at the end the fol-  
 3       *lowing:*

4       **“§ 115. Veterans’ preference**

5           “(a) *Subject to subsection (b), appointments under sec-*  
 6       *tions 105, 106, and 107 shall be made in accordance with*  
 7       *section 2108, and sections 3309 through 3312, of title 5.*

8           “(b) *Subsection (a) shall not apply to any appoint-*  
 9       *ment to a position the rate of basic pay for which is at*  
 10       *least equal to the minimum rate established for positions*  
 11       *in the Senior Executive Service under section 5382 of title*  
 12       *5 and the duties of which are comparable to those described*  
 13       *in section 3132(a)(2) of such title or to any other position*  
 14       *if, with respect to such position, the President makes certifi-*  
 15       *cation—*

16           “(1) *that such position is—*

17                   “(A) *a confidential or policy-making posi-*  
 18       *tion; or*

19                   “(B) *a position for which political affili-*  
 20       *ation or political philosophy is otherwise an im-*  
 21       *portant qualification; and*

22           “(2) *that any individual selected for such posi-*  
 23       *tion is expected to vacate the position at or before the*  
 24       *end of the President’s term (or terms) of office.*

1 *Each individual appointed to a position described in the*  
 2 *preceding sentence as to which the expectation described in*  
 3 *paragraph (2) applies shall be notified as to such expecta-*  
 4 *tion, in writing, at the time of appointment to such posi-*  
 5 *tion.”.*

6 (2) *CLERICAL AMENDMENT.—The table of sec-*  
 7 *tions at the beginning of chapter 2 of title 3, United*  
 8 *States Code, is amended by adding at the end the fol-*  
 9 *lowing:*

*“115. Veterans’ preference.”.*

10 (c) *LEGISLATIVE BRANCH APPOINTMENTS.—*

11 (1) *DEFINITIONS.—For the purposes of this sub-*  
 12 *section, the terms “covered employee” and “Board”*  
 13 *shall each have the meaning given such term by sec-*  
 14 *tion 101 of the Congressional Accountability Act of*  
 15 *1995 (2 U.S.C. 1301).*

16 (2) *RIGHTS AND PROTECTIONS.—The rights and*  
 17 *protections established under section 2108, sections*  
 18 *3309 through 3312, and subchapter I of chapter 35,*  
 19 *of title 5, United States Code, shall apply to covered*  
 20 *employees.*

21 (3) *REMEDIES.—*

22 (A) *IN GENERAL.—The remedy for a viola-*  
 23 *tion of paragraph (2) shall be such remedy as*  
 24 *would be appropriate if awarded under applica-*  
 25 *ble provisions of title 5, United States Code, in*

1        *the case of a violation of the relevant correspond-*  
 2        *ing provision (referred to in paragraph (2)) of*  
 3        *such title.*

4                (B) *PROCEDURE.*—*The procedure for con-*  
 5        *sideration of alleged violations of paragraph (2)*  
 6        *shall be the same as apply under section 401 of*  
 7        *the Congressional Accountability Act of 1995*  
 8        *(and the provisions of law referred to therein) in*  
 9        *the case of an alleged violation of part A of title*  
 10       *II of such Act.*

11               (4) *REGULATIONS TO IMPLEMENT SUB-*  
 12       *SECTION.*—

13               (A) *IN GENERAL.*—*The Board shall, pursu-*  
 14        *ant to section 304 of the Congressional Account-*  
 15        *ability Act of 1995 (2 U.S.C. 1384), issue regula-*  
 16        *tions to implement this subsection.*

17               (B) *AGENCY REGULATIONS.*—*The regula-*  
 18        *tions issued under subparagraph (A) shall be the*  
 19        *same as the most relevant substantive regulations*  
 20        *(applicable with respect to the executive branch)*  
 21        *promulgated to implement the statutory provi-*  
 22        *sions referred to in paragraph (2) except insofar*  
 23        *as the Board may determine, for good cause*  
 24        *shown and stated together with the regulation,*  
 25        *that a modification of such regulations would be*



1        *more effective for the implementation of the*  
2        *rights and protections under this subsection.*

3                (C) *COORDINATION.*—*The regulations issued*  
4        *under subparagraph (A) shall be consistent with*  
5        *section 225 of the Congressional Accountability*  
6        *Act of 1995 (2 U.S.C. 1361).*

7                (5) *APPLICABILITY.*—*Notwithstanding any other*  
8        *provision of this subsection, the term “covered em-*  
9        *ployee” shall not, for purposes of this subsection, in-*  
10       *clude an employee—*

11                (A) *whose appointment is made by the*  
12        *President with the advice and consent of the Sen-*  
13        *ate;*

14                (B) *whose appointment is made by a Mem-*  
15        *ber of Congress or by a committee or subcommit-*  
16        *tee of either House of Congress; or*

17                (C) *who is appointed to a position, the du-*  
18        *ties of which are equivalent to those of a Senior*  
19        *Executive Service position (within the meaning*  
20        *of section 3132(a)(2) of title 5, United States*  
21        *Code).*

22                (6) *EFFECTIVE DATE.*—*Paragraphs (2) and (3)*  
23        *shall be effective as of the effective date of the regula-*  
24        *tions under paragraph (4).*

25                (d) *JUDICIAL BRANCH APPOINTMENTS.*—

1           (1) *IN GENERAL.*—Subject to paragraphs (2) and  
2           (3), the Judicial Conference of the United States shall  
3           prescribe procedures to provide for—

4                   (A) veterans' preference in the consideration  
5                   of applicants for employment, and in the con-  
6                   duct of any reductions in force, within the judi-  
7                   cial branch; and

8                   (B) redress for alleged violations of any  
9                   rights provided for under subparagraph (A).

10          (2) *PROCEDURES.*—Under the procedures, a  
11          preference eligible (as defined by section 2108 of title  
12          5, United States Code) shall be afforded preferences in  
13          a manner and to the extent consistent with pref-  
14          erences afforded to preference eligibles in the executive  
15          branch.

16          (3) *EXCLUSIONS.*—Nothing in the procedures  
17          shall apply with respect to an applicant or em-  
18          ployee—

19                   (A) whose appointment is made by the  
20                   President with the advice and consent of the Sen-  
21                   ate;

22                   (B) whose appointment is as a judicial offi-  
23                   cer;

1           (C) whose appointment is required by stat-  
 2           ute to be made by or with the approval of a  
 3           court or judicial officer; or

4           (D) whose appointment is to a position, the  
 5           duties of which are equivalent to those of a Sen-  
 6           ior Executive Service position (within the mean-  
 7           ing of section 3132(a)(2) of title 5, United States  
 8           Code).

9           (4) *DEFINITIONS.*—For purposes of this sub-  
 10          section, the term “judicial officer” means a justice,  
 11          judge, or magistrate judge listed in subparagraph (A),  
 12          (B), (F), or (G) of section 376(a)(1) of title 28,  
 13          United States Code.

14          (5) *SUBMISSION TO CONGRESS; EFFECTIVE*  
 15          *DATE.*—

16               (A) *SUBMISSION TO CONGRESS.*—Not later  
 17          than 12 months after the date of enactment of  
 18          this Act, the Judicial Conference of the United  
 19          States shall submit a copy of the procedures pre-  
 20          scribed under this subsection to the Committee  
 21          on Government Reform and Oversight and the  
 22          Committee on the Judiciary of the House of Rep-  
 23          resentatives and the Committee on Governmental  
 24          Affairs and the Committee on the Judiciary of  
 25          the Senate.

1                   (B) *EFFECTIVE DATE.*—*The procedures pre-*  
 2                   *scribed under this subsection shall take effect 13*  
 3                   *months after the date of enactment of this Act.*

4 **SEC. 4. VETERANS' PREFERENCE REQUIRED FOR REDUC-**  
 5                   **TIONS IN FORCE IN THE FEDERAL AVIATION**  
 6                   **ADMINISTRATION.**

7           Section 347(b) of the Department of Transportation  
 8 and Related Agencies Appropriations Act, 1996 (109 Stat.  
 9 460) is amended—

10                   (1) by striking “and” at the end of paragraph  
 11                   (6);

12                   (2) by striking the period at the end of para-  
 13 graph (7) and inserting “; and”; and

14                   (3) by adding at the end the following:

15                   “(8) sections 3501–3504, as such sections relate  
 16 to veterans’ preference.”.

17 **SEC. 5. FAILURE TO COMPLY WITH VETERANS' PREF-**  
 18                   **ERENCE REQUIREMENTS TO BE TREATED AS**  
 19                   **A PROHIBITED PERSONNEL PRACTICE FOR**  
 20                   **CERTAIN PURPOSES.**

21           (a) *IN GENERAL.*—Subsection (b) of section 2302 of  
 22 title 5, United States Code, is amended—

23                   (1) by striking “or” at the end of paragraph  
 24                   (10);

1           (2) *by redesignating paragraph (11) as para-*  
 2           *graph (12); and*

3           (3) *by inserting after paragraph (10) the follow-*  
 4           *ing:*

5           “(11)(A) *knowingly take, recommend, or approve*  
 6           *any personnel action if the taking of such action*  
 7           *would violate a veterans’ preference requirement; or*

8           “(B) *knowingly fail to take, recommend, or ap-*  
 9           *prove any personnel action if the failure to take such*  
 10           *action would violate a veterans’ preference require-*  
 11           *ment; or”.*

12           (b) *DEFINITION; LIMITATION.—Section 2302 of title 5,*  
 13           *United States Code, is amended by adding at the end the*  
 14           *following:*

15           “(e)(1) *For the purpose of this section, the term ‘veter-*  
 16           *ans’ preference requirement’ means any of the following*  
 17           *provisions of law:*

18           “(A) *Sections 2108, 3305(b), 3309, 3310, 3311,*  
 19           *3312, 3313, 3314, 3315, 3316, 3317(b), 3318, 3320,*  
 20           *3351, 3352, 3363, 3501, 3502(b), 3504, and 4303(e)*  
 21           *and (with respect to a preference eligible referred to*  
 22           *in section 7511(a)(1)(B)) subchapter II of chapter 75*  
 23           *and section 7701.*

24           “(B) *Sections 943(c)(2) and 1784(c) of title 10.*

1           “(C) *Section 1308(b) of the Alaska National In-*  
2           *terest Lands Conservation Act.*

3           “(D) *Section 301(c) of the Foreign Service Act of*  
4           *1980.*

5           “(E) *Sections 106(f), 7281(e), and 7802(5) of*  
6           *title 38.*

7           “(F) *Section 1005(a) of title 39.*

8           “(G) *Any other provision of law that the Direc-*  
9           *tor of the Office of Personnel Management designates*  
10          *in regulations as being a veterans’ preference require-*  
11          *ment for the purposes of this subsection.*

12          “(H) *Any regulation prescribed under subsection*  
13          *(b) or (c) of section 1302 and any other regulation*  
14          *that implements a provision of law referred to in any*  
15          *of the preceding subparagraphs.*

16          “(2) *Notwithstanding any other provision of this title,*  
17          *no authority to order corrective action shall be available*  
18          *in connection with a prohibited personnel practice described*  
19          *in subsection (b)(11). Nothing in this paragraph shall be*  
20          *considered to affect any authority under section 1215 (relat-*  
21          *ing to disciplinary action).”.*

22          (c) *REPEALS.—*

23                 (1) *SECTION 1599c OF TITLE 10, UNITED STATES*  
24                 *CODE.—*

1                   (A) *REPEAL.*—Section 1599c of title 10,  
2                   *United States Code, is repealed.*

3                   (B) *CLERICAL AMENDMENT.*—The table of  
4                   sections at the beginning of chapter 81 of such  
5                   title is amended by striking out the item relating  
6                   to section 1599c.

7                   (2) *SECTION 2302(a)(1) OF TITLE 5, UNITED*  
8                   *STATES CODE.*—Subsection (a)(1) of section 2302 of  
9                   title 5, *United States Code, is amended to read as fol-*  
10                  *lows:*

11               “(a)(1) *For the purpose of this title, ‘prohibited per-*  
12               *sonnel practice’ means any action described in subsection*  
13               *(b).”.*

14               (d) *SAVINGS PROVISION.*—This section shall be treated  
15               as if it had never been enacted for purposes of any personnel  
16               action (within the meaning of section 2302 of title 5, *United*  
17               *States Code*) preceding the date of enactment of this Act.

18   **SEC. 6. EXPANSION AND IMPROVEMENT OF VETERANS’ EM-**  
19                   **PLOYMENT EMPHASIS UNDER FEDERAL CON-**  
20                   **TRACTS.**

21               (a) *COVERED VETERANS.*—Section 4212 of title 38,  
22               *United States Code, is amended—*

23                   (1) *in subsection (a), by striking out “special*  
24                   *disabled veterans and veterans of the Vietnam era”*  
25                   *and inserting in lieu thereof “special disabled veter-*

1        *ans, veterans of the Vietnam era, and covered veterans*  
 2        *of the Persian Gulf War”;*

3            (2) *in subsection (b), by striking out “special*  
 4        *disabled veteran or veteran of the Vietnam era” and*  
 5        *inserting in lieu thereof “special disabled veteran, vet-*  
 6        *eran of the Vietnam era, or covered veteran of the*  
 7        *Persian Gulf War”;*

8            (3) *in subsection (d)(1), by striking out “veter-*  
 9        *ans of the Vietnam era or special disabled veterans”*  
 10       *both places it appears and inserting in lieu thereof*  
 11       *“special disabled veterans, veterans of the Vietnam*  
 12       *era, or covered veterans of the Persian Gulf War”;*  
 13       *and*

14            (4) *by adding at the end the following:*

15        *“(e) For purposes of this section, the term ‘covered vet-*  
 16       *eran of the Persian Gulf War’ means any veteran who*  
 17       *served in the active military, naval, or air service in the*  
 18       *Southwest Asia theater of operations during the period be-*  
 19       *ginning on August 2, 1990, and ending on January 2,*  
 20       *1992.”.*

21        (b) *PROHIBITION ON CONTRACTING WITH ENTITIES*  
 22       *NOT MEETING REPORTING REQUIREMENTS.—(1) Sub-*  
 23       *chapter III of chapter 13 of title 31, United States Code,*  
 24       *is amended by adding at the end the following:*



1   ***“§ 1354. Limitation on use of appropriated funds for***  
 2                   ***contracts with entities not meeting veter-***  
 3                   ***ans’ employment reporting requirements***

4           “(a)(1) *Subject to paragraph (2), no agency may obli-*  
 5 *gate or expend funds appropriated for the agency for a fis-*  
 6 *cal year to enter into a contract described in section*  
 7 *4212(a) of title 38 with a contractor from which a report*  
 8 *was required under section 4212(d) of that title with respect*  
 9 *to the preceding fiscal year if such contractor did not sub-*  
 10 *mit such report.*

11          “(2) *Paragraph (1) shall cease to apply with respect*  
 12 *to a contractor otherwise covered by that paragraph on the*  
 13 *date on which the contractor submits the report required*  
 14 *by such section 4212(d) for the fiscal year concerned.*

15          “(b) *The Secretary of Labor shall take appropriate ac-*  
 16 *tions to notify agencies in a timely manner of the contrac-*  
 17 *tors covered by subsection (a).”.*

18          “(2) *The table of sections at the beginning of chapter*  
 19 *13 of such title is amended by adding at the end the follow-*  
 20 *ing:*

*“1354. Limitation on use of appropriated funds for contracts with entities not  
meeting veterans’ employment reporting requirements.”.*

1 **SEC. 7. REQUIREMENT FOR ADDITIONAL INFORMATION IN**  
2 **ANNUAL REPORTS FROM FEDERAL CONTRAC-**  
3 **TORS ON VETERANS EMPLOYMENT.**

4 *Section 4212(d)(1) of title 38, United States Code, as*  
5 *amended by 6(a)(3), is further amended—*

6 *(1) by striking out “and” at the end of subpara-*  
7 *graph (A);*

8 *(2) by striking out the period at the end of sub-*  
9 *paragraph (B) and inserting in lieu thereof “; and”;*  
10 *and*

11 *(3) by adding at the end the following:*

12 *“(C) the maximum number and the minimum*  
13 *number of employees of such contractor during the pe-*  
14 *riod covered by the report.”.*